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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/599,511	09/29/2006	Yoshiki Nakano	11672-005US1 CH:KM, PC/N-	1093
26171 7590 03/23/2009 FISH & RICHARDSON P.C. P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			EXAMINER WOOD, ELIZABETH D	
			ART UNIT	PAPER NUMBER
			1793	
			NOTIFICATION DATE	DELIVERY MODE
			03/23/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATDOCTC@fr.com

Office Action Summary	Application No. 10/599,511	Applicant(s) NAKANO ET AL.	
	Examiner Elizabeth D. Wood	Art Unit 1793	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-13 is/are pending in the application.
- 4a) Of the above claim(s) 12 and 13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/26/06</u> . | 6) <input type="checkbox"/> Other: _____ |

Election/Restriction

Applicant's election without traverse of Group I, claims 1-3 and 5-11, in the reply filed on January 29, 2009 is acknowledged.

Specification

The examiner has not checked the specification to the extent necessary to determine the presence of **all** possible minor errors (grammatical, typographical and idiomatic). Cooperation of the applicant(s) is requested in correcting any errors of which applicant(s) may become aware of in the specification, in the claims and in any future amendment(s) that applicant(s) may file.

Applicant(s) is also requested to complete the status of any copending applications referred to in the specification by their Attorney Docket Number or Application Serial Number, **if any**.

The status of the parent application(s) and/or any other application(s) cross-referenced to this application, if **any**, should be updated in a timely manner.

Claim Objections

Claims 2 and 3 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim.

Applicant is required to cancel the claim(s) or amend the claim(s) to place the claim(s) in proper dependent form. These claims do not further limit the catalyst composition, but instead recite limitations on the method of using the composition. Accordingly, they do not further limit the subject matter of the independent catalyst claim.

Claim Rejections - 35 USC § 112

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The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 8 and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 8 recites "an amount of acid of zeolite is in a range of 0.4 to 1.5 mmol NH₃/g". This language lacks antecedent basis for an acid, and is further confusing in that this type of designation is not commonly found in the patent literature and is not defined in the specification. Such language, when found, is normally related to the adsorption capacity of a given material.

Claim 9 recites "a sum of an amount of an oxide converted from an alkali metal contained in the zeolite". Apparently this language means that there is less than 5 wt% of alkali or alkaline earth oxides in the product, but the language is not clear.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and 5-11 are rejected under 35 U.S.C. 102(b) as being anticipated by US 5,292,911 to Lachman et al.

The instantly claimed invention is directed to a catalyst composition containing alumina particles with precious metals thereon, and zeolite particles, optionally with precious metals contained thereon. The material can contain a binder and be coated on a substrate.

Lachman et al. disclose a composition that can be produced in numerous different ways. A noble metal can be dispersed on gamma alumina and then mixed with molecular sieve. This material can be applied to a substrate. Alternately, zeolite particles can be mixed with an alumina binder in slurry form, coated on the substrate, and then treated with noble metal. Lachman teaches that the metals are primarily on the alumina, but this does not mean that some are not on the zeolite as claimed in the dependent claims of this application. Further, it is considered that the additional binder claimed by applicant is met by the Lachman et al. disclosure of using the alumina component as a binder.

In view of the foregoing, it is considered that Lachman et al. anticipate the herein claimed invention. See particularly columns 2-4.

Claims 1-3 and 5-11 are rejected under 35 U.S.C. 102(b) as being anticipated by US 6,248,684 to Yavuz et al.

Yavuz et al. disclose compositions comprising activated alumina that can support a loading of platinum or palladium. Additionally in the composition is a zeolite that can be doped with a metal such as platinum, palladium rhodium, and so forth. This material can be washcoated onto a substrate, substantially as set forth by applicant in the instant claims. Ceria can also be present in the Yavuz et al. document and such reads on the

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herein claimed binder component. The entire document is highly relevant, but see particularly columns 2, 3 and 5-8.

Claims 1-3 and 5-11 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. 2001/0053745 to Kharas et al.

Kharas et al. disclose compositions wherein both alumina and zeolite particles are present, and noble metal has been dispersed on both materials, substantially as claimed herein by applicant. This material can be coated onto a substrate to produce a final catalyst. The material may be bound prior to coating on a monolith. The entire document is highly relevant, but see particularly page 2 and the examples.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant is advised that much of the prior art is cumulative to that applied hereinabove. Due to the extreme breadth of the claims under examination and the fact that the prior art is replete with documents directed to compositions comprising zeolite particles and alumina particles with precious metals thereon, all of the prior art of record should be kept in mind when making arguments or presenting amendments.

Applicants are advised that any evidence to be provided under 37 CFR 1.131 or 1.132 and any amendments to the claims and specification should be submitted prior to final rejection to be considered timely. It is anticipated that the next office action will be a final rejection.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth D. Wood whose telephone number is 571-272-1377. The examiner can normally be reached on M-F, 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on 571-272-1233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Elizabeth D. Wood/
Primary Examiner, Art Unit 1793

/E. D. W./
Primary Examiner, Art Unit 1793